

# Scottsdale City Charter

## Article 1: Incorporation, Form of Government, Powers and Boundaries

---

### Sec. 1. Incorporation.

The inhabitants of the City of Scottsdale, within the corporate limits as now established or as hereafter established in the manner provided by law, shall continue to be a municipal body politic and corporate in perpetuity, under the name of the "City of Scottsdale".

### Sec. 2. Form of government.

The municipal government provided by this charter shall be known as the council manager form of government. Pursuant to its provisions and subject only to the limitations imposed by the state constitution and by this charter, all powers of the city shall be vested in an elective council, hereinafter referred to as "the council," which shall enact local legislation, adopt budgets, determine policies and appoint the city manager and such other officers deemed necessary and proper for the orderly government and administration of the affairs of the city, as prescribed by the constitution and applicable laws, and ordinances hereafter adopted by the city. All powers of the city shall be exercised in the manner prescribed by this charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

### Sec. 3. Powers of city.

The city shall have all the powers granted to municipal corporations and to cities by the constitution and laws of this state and by this charter, together with all the implied powers necessary to carry into execution all the powers granted, and these further rights and powers, to wit:

- A. The city may acquire property within or without its corporate limits for any city purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and may sell, lease, mortgage, hold, manage and control such property as its interests may require.
- B. To designate and establish as floodways or flood plains, areas of land within the boundaries of the city reasonably required or necessary to improve, extend, maintain or facilitate the control or discharge of waters of rivers and streams and intermittent flowing creeks, washes, arroyos, drains and channels together with surface and flood waters so as to prevent the loss of or injury to lives and damage to property and prevent and prohibit encroachments and obstructions within the floodway and flood plain areas so designated and established by the city together with criminal and civil penalty for violations thereof.

***City Attorney's Office - Consider changing the "prevent" and "prohibit" flooding language. The City's design standards only protect against flooding in a 100 year storm event as approved by a licensed engineer (private). Larger storms, inadequate engineering and floodway obstructions can still cause flooding and the City cannot always guard against these things. The literal interpretation of "preventing" and "prohibiting" floods and floodplain encroachments was not likely intended. Currently, this provision can be read***

# Scottsdale City Charter

***to be in conflict with the City's Floodplain Ordinance and it should be updated. I advise substituting "prevent" with "help decrease" or something similar and deleting the word "prohibit" all together.***

- C. To adopt and from time to time modify, a comprehensive plan of the future physical development of the city to serve as a guide to all future council action concerning land use regulations and expenditures for capital improvements and the council may by ordinance implement said comprehensive plan by adopting land use and development regulations including but not limited to an official **(insert "zoning")** map and zoning and subdivision regulations.
- D. To levy and collect assessments and file liens on real property to collect amounts owed to the city for collection of solid waste and recyclable materials, water service and other utilities, city services rendered for special events, and sewer rental charges, service charges or fees for police or fire department responses to false or invalid alarms, or for other amounts owed to the city as provided by law, and reasonable amounts expended by the city in the abatement of any nuisance, **(insert "floodplain obstruction or flooding hazard,")** demolition and removal of any legally condemned building or structure and the cleaning and renovating of vacant lots which are offensive to the sight or smell or hazardous to the public health.
- E. To prescribe the number of times a notice is to be published, the place of publication and the form of such notice when publication of a notice in a **newspaper** is directed or authorized by law.

***City Attorney's Office - Consider removing the requirement to publish notices in a newspaper from the Charter. New technologies have brought about uncertainty for traditional newspapers and other, possibly better, methods of publishing notices may be used in the future (web pages, etc.). In order to offer the City more flexibility and allow it to stay current, deletion of references to newspapers seems practical. The following language is likely sufficient: "To prescribe the place and manner a notice is to be published."***

- F. The city has the exclusive control and regulation of the use and enjoyment of its streets, alleys, public grounds or ways.
- G. To **(consider adding "the extent allowed by Arizona and federal law")** require all persons, firms, or corporations responsible for new physical development within the city to provide for or furnish, or **(consider adding "where allowed by City ordinance")** pay a fee in lieu of providing for or furnishing: (1) public utility easements; (2) water production, storage and transmission; (3) sewage collection, transmission, treatment and disposal; (4) park land and development; (5) school sites; (6) dedication and improvement of public rights-of-way; (7) bike paths and other necessary transportation; (8) drainage; (9) flood control; and (10) other public facilities necessary to maintain satisfactory levels of service for said new development, as provided by ordinance which shall include definite standards basing the foregoing requirements on the needs of the inhabitants of said new development.

# Scottsdale City Charter

***City Attorney's Office - Note: Federal and state laws place limits on City exactions, dedications and land use requirements. In a nut shell, the exaction or dedication must have sufficient nexus and proportionality to the impact of the proposed development in order to be lawful.***

- H. To require architectural and site plan review and approval prior to the development, construction, reconstruction, or conversion of any building or structure other than **detached** single-family dwellings.

***City Attorney's Office - This Charter provision prevents architectural review of single family dwellings. The City Council requested that it be interpreted more narrowly, so some architectural review at a staff level can be performed, in order to allow more flexibility in some residential zoning districts. This issue was raised when the City Council recently asked that some architectural review related to character be allowed in order for home owners to qualify for more flexible zoning in R1-7 (Residential zoning). This type of review was requested in order to make sure that any proposed new accessory buildings would meet the character and design elements of the primary home and neighborhood. The Task Force may want to consider editing this provision to allow this type of review. One option would be to revise this section to prohibit "Development Review Board review" of single family residential structures, but to allow for some limited staff review. Suggested language to consider is as follows:***

***"To require architectural and site plan review and approval prior to the development, construction, reconstruction, or conversion of any building or structure other than detached single-family dwellings and accessory buildings. Single-family dwellings and single-family accessory buildings may be subjected to limited city staff review, when specifically required by City Ordinance, but shall not be subject to review by a public body."***

- I. To adopt specific plans ***(consider adding "and/or character area plans" here because specific plans are defined by state law and the City currently has character area plans rather than "specific plans" as the state law defines those)*** for land use for areas within the city for the purpose of refining the general plan.
- J. To provide for solid waste management and the collection, source separation, storage, transportation, transfer, processing, treatment, sale, disposal, regulation of garbage, all other solid waste, and recyclable materials, and to acquire, construct, operate and maintain solid waste management facilities, including the authority to enter into contracts therefor, levy and collect fees and charges, require licenses, accept grants, acquire or dispose of recyclable materials, and to impose criminal penalties for the unlawful interference with all such activities. Further, the city may by mutual agreement with other private or

# Scottsdale City Charter

governmental entities provide for the management and disposal of garbage and all other solid waste and recyclable materials.

- K. To provide for the preservation and enhancement of the environment of the City of Scottsdale as it may relate to the ecology.

***City Attorney's Office - What K means when it states "as it may relate to the ecology" is a bit unclear. One option is to consider deleting "...as it may relate to the ecology." Another would be to replace it with how it may relate to "local plants, wildlife, and natural resources to maintain the biological diversity and long-term sustainability of the city's ecology." This proposed language provides more clarity to this provision.***

- L. To provide for the protection, development, enhancement, storage, transportation and replenishment of the water supply, including but not limited to groundwater recharge, for the benefit of the City of Scottsdale, both within and without its boundaries.
- M. To provide for the collection, transportation, disposition and regulation of wastewater and effluent, and to acquire, construct, operate and maintain wastewater and effluent treatment and management facilities, including the authority to enter into contracts therefor, levy and collect fees and charges, require licenses, accept grants, purchase and sell recovered resources, and to impose criminal penalties for the unlawful disposal of wastewater and effluent. Further, the city may by mutual agreement with other private or governmental entities provide for the disposal of wastewater and effluent.
- N. To adopt ordinances relating to the external maintenance of structures and land, to levy and collect assessments and to file liens on real property to collect amounts expended by the city for such external maintenance.

Except as prohibited by the constitution of this state, or restricted by this charter, the city shall and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever.

The enumeration of particular powers by this charter shall not be deemed to be exclusive, and in addition to the powers enumerated herein or implied hereby, or appropriate to the exercise of such powers, it is intended that the city shall have and may exercise all powers which under the constitution of this state, it would be competent for this charter specifically to enumerate.

***City Attorney's Office - If the Task Force would like to further clarify the paragraph set forth above, it may consider deleting it and substituting it with the following: "The powers of the city under this charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the charter shall not be construed as limiting, in any way, the general powers granted in this Charter or otherwise granted by Arizona law."***

Sec. 3-1. Intergovernmental relations.

The city may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation by contract, or otherwise, with any one or more states,

# Scottsdale City Charter

political subdivisions, school districts, Indian tribal councils or any board, commission or agency, or combination of them, or with the United States or any department or agency thereof.

## Sec. 4. Boundaries.

The boundaries of the city shall be the boundaries as established at the time this charter takes effect, or as such boundaries may be changed thereafter in the manner authorized by law.

## Article 2: The Council

---

### Sec. 1. Powers of the council.

All powers of the city, not in conflict with the constitution and subject to the limitations of this charter, shall be vested in the council, who shall enact appropriate legislation and do and perform any and all acts and things which may be necessary and proper to carry out these powers or any of the provisions of this charter.

### Sec. 2. Number; selection.

The council shall consist of a mayor and six (6) councilmen elected from the city at large.

### Sec. 3. Terms of mayor and council members.

The terms of the mayor and each member of the council shall commence at the first regular meeting of the council following the date set for the Run-off election, even if no such Run-off election is held, and shall be for four consecutive years thereafter, or until his or her successor is duly elected and inducted into office. The mayor and three members of the council shall be elected in the year 2000, and three members of the council shall be elected two years thereafter.

**City Clerk - Consider changing the name of the City's elections to Primary (September) and General (November), rather than General (September) and Runoff (November) to be more consistent with the State and the rest of the consolidated ballot.**

### Sec. 4. Qualifications.

The mayor and councilmen shall be qualified electors of the city and shall hold no other public office which in any way conflicts with the office of mayor or councilman, and shall have resided in said city, or in an area annexed to said city, for one (1) year next preceding the date of such election or appointment. If the mayor or a councilman shall cease to possess any of these qualifications or shall be convicted of a crime involving moral turpitude, his office shall immediately become vacant.

### Sec. 5. Limitations on filing for election.

Any incumbent mayor or councilman, who is not in the final year of the term being served, shall resign from office before offering himself for nomination or election to any salaried local, state or federal office. An incumbent mayor or councilman, in the final year of a term being served, may offer himself for nomination or election to any salaried local, state or federal office, without resignation from office. To be eligible to run for the office of mayor, an incumbent councilman who is not in the final year of the term being served, shall resign his office upon offering himself for

# Scottsdale City Charter

nomination, or ninety (90) days prior to the General election, whichever occurs first. "Offer for nomination or election" means either filing a nomination paper required by law to run for public office or making a formal public declaration of candidacy. Resignations required by this section shall be in writing, filed with the city clerk and shall be effective upon filing.

**City Clerk - Consider amending language to better define "offering himself for nomination or election and/or formal public declaration of candidacy."**

## Sec. 6. Duties of the mayor.

- A. The mayor shall be the chairman of the council and preside over its meetings. He may make and second motions and shall have a voice and vote in all its proceedings.
- B. He shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of martial law, but shall have no regular administrative duties.
- C. The mayor shall govern the city by proclamation during times of riot, civil insurrection, major disaster and times of great public danger.

## Sec. 7. Mayor pro tempore.

The council shall designate one of its members as mayor pro tempore (*consider adding "or vice mayor"*), who shall serve in such capacity at the pleasure of the council. The mayor pro tempore (*"or vice mayor"*) shall perform the duties of the mayor during his absence or disability.

**City Clerk - Consider changing the name from Mayor pro tempore to Vice Mayor, and provide method for codification of the eight month process to be used for selection of Vice Mayor.**

## Sec. 8. Salaries of mayor and councilmen.

The monthly salary of the mayor shall be two thousand three hundred dollars (\$3,000.00), and of the councilmen shall be one thousand one hundred fifty dollars (\$1,500.00), until changed by ordinance, but shall not be increased during the current term of mayor and councilmen enacting such ordinance.

**City Clerk - Consider asking the Charter Review Committee to review this and make a recommendation on whether a change is warranted.**

## Sec. 9. Council to be judge of qualifications of its members.

The council shall be the judge of the election and qualifications of its members and for such purpose shall have power to subpoena witnesses and require the production of records, but the decision of the council in any such case shall be subject to review by the courts.

# Scottsdale City Charter

*City Attorney's Office - Consider updating this section. Although a similar provision is in the Model Code, the Model Code includes a forfeiture of office provision. These provisions provide the Council with more ability to police themselves and hold themselves to a Code of Ethical Behavior.*

*Here, Scottsdale's similar provisions relate only to elections and qualifications. A Court would ultimately be the judge of election disputes, although the Council must ultimately approve the election results. In addition, this provision states that the City Council has the ability to subpoena third party witnesses and records, but the City Council's ability to subpoena third parties seems limited.*

*The Task Force may want to consider updating and clarifying this provision and may also want to consider whether to include a forfeiture or removal of office provision. Currently, the City's Ethics Code does not contain a removal from office provision because it was unclear whether the City would have the power to remove an elected official from office without a recall. A Charter provision would certainly bolster this ability. If the Task Force is interested in a forfeiture provision, the City Attorney's Office would need to provide additional legal advice on this topic.*

## Sec. 10. Induction of mayor and council into office.

Each newly elected mayor and member of the council shall be inducted into office at the beginning of the first regular meeting of the council following the date set for the run-off election, even if no run-off election is held.

**Consider changing "run-off" to General.**

## Sec. 11. Vacancies in council and office of mayor.

The council, by majority vote of its remaining members, shall within thirty-one (31) days, fill the vacancy in its own membership including the office of mayor, by appointing a person to serve until the office is filled by election. If a vacancy in either the office of mayor or councilman occurs less than thirty (30) days prior to the final date for filing nomination petitions for the general election, the council shall appoint by majority vote a person to serve the remainder of the unexpired term. If a vacancy occurs in the office of mayor more than thirty (30) days prior to the final date for filing nomination petitions for the general election, the vacancy shall be filled for a four (4) year term at the next regular general election and run-off election, if necessary, as provided in this charter. If a vacancy occurs in the office of councilman more than thirty (30) days prior to the final date for filing nomination petitions, the unexpired term shall be filled at the next regular general election and run-off election, if necessary, as provided in this charter. In any general election or run-off election, if necessary, as provided in this charter, when more than three (3) vacancies exist in the office of councilman, and have to be filled at said election, the three (3) candidates receiving the greatest number of votes shall be elected for four (4) year terms as provided in article 2, section 4 of this charter and the candidate or candidates equal in number to the vacancies to be filled receiving the next greatest number of votes in descending order shall be elected for the unexpired term or terms.

# Scottsdale City Charter

**City Clerk - Consider changing the name of the City's elections to Primary (September) and General (November), rather than General (September) and Runoff (November) to be more consistent with the State and the rest of the consolidated ballot.**

**Consider increasing the time frame from 30 to 60 days prior to the final date for filing nomination petitions to give potential candidates sufficient time to collect required signatures.**

**Consider optional process that would allow candidates to run for the "short term" in situations where more than three vacancies exist in the office of councilman. This process allows candidates to declare and run for the short term vacancy, which would be listed as a separate race on the ballot.**

**When appointing a member to fill a vacancy on the Council, including the office of mayor, consider adding a provision that would allow the Council to adopt, by ordinance, a process for deciding a tie if the Council is unable to reach consensus.**

Sec. 12. Council meetings; open to public.

The council shall meet regularly at such times and at such places as may be prescribed by its rules, but not less frequently than two (2) times each month. All meetings of the council to conduct official business shall be open to the public.

*City Attorney's Office - Consider whether the requirement to meet "not less frequently than two (2) times each month" should be updated. The City Council typically takes a break in the summer and has at least two consecutive meetings at the very beginning of July and two consecutive meetings at the very end of August as a result of this Charter provision.*

*The Open Meeting Law already requires Council meetings be open to the public, with the exception of executive session meetings. If the Task Force would like to keep this language in the Charter, it should consider changing the last sentence of this section, as follows: "All meetings of the council to discuss or take action on City business shall be open to the public except for executive sessions as defined by A.R.S. §38-431.03."*

*This proposed language is consistent with Arizona Open Meeting Law and is consistent with the City's practice of holding non-public executive sessions for the limited purposes described in A.R.S. §38-431.03.*

Sec. 13. Special meetings.

Special meetings may be called by the mayor or four (4) **(consider changing to 3 or less to avoid open meeting law violations)** members of the council, with reasonable notice given to all members of the council.

**City Clerk - Consider changing the language to "three (3) members of council" to avoid the appearance of violating the open meeting law.**



# Scottsdale City Charter

*City Attorney's Office - Note: Council Members typically ask about special meetings when the Council is on its summer break and a time sensitive issue arises. A recent example is that the DRB issued a decision on a case while the Council was on break. Council can vote to appeal the DRB decision before it becomes final, but the decision becomes final if it does not vote to appeal within 20 days. The Council did not have a regularly scheduled meeting during the appeal period. In this case, the Councilman interested in appealing the DRB's decision asked the Mayor to call a special meeting and the Mayor agreed to do that. However, if the Mayor had not been available to call a special meeting or if he had refused to do so, it would have been difficult for that Councilman to check with 3 other Council Members without causing some Open Meeting Law concerns. For this reason, the Task Force should consider changing this section to allow 3 or fewer Council Members to call a special meeting.*

## Sec. 14. Rules of procedure; journal.

The council shall determine its own rules and order of business subject to the provisions of this charter. It shall keep a journal (**consider changing "journal" to "record"**) of its proceedings and the journal (**"record"**) shall be open to public inspection during regular office hours.

**City Clerk - Consider revising language to reflect the more modern phrase "record" instead of "journal."**

*City Attorney's Office - Consider deleting because the subject area of keeping and posting minutes is fully regulated by the Arizona open meeting law. In the alternative, the word journal could be updated to "record" or "minutes" so that the language more accurately describes the required process.*

## Sec. 15. Quorum; ayes and nays.

A majority of the members of the council shall constitute a quorum, but a smaller number may adjourn from day to day or from time to time (**consider deleting highlighted language**). The vote on any question shall be by ayes and nays and shall be entered in the journal (**consider changing to "record"**). At the request of any member of the council, a roll call vote shall be taken.

**City Clerk - Consider revising language to make it less restrictive and allow the Council to cast votes electronically in lieu of making a formal declaration of "aye" or "nay."**

## Sec. 16. Consideration of petitions.

Any citizen of the city may appear before the council at any regular meeting and present a written petition; such petition shall be acted upon by the council, in the regular course of business, within thirty (30) days (**consider adding "or at its next regularly scheduled meeting, whichever is earlier"**).

**City Clerk - Consider revising language to allow more flexibility in the amount of time the Council has to act and to more clearly define "petition."**

# Scottsdale City Charter

**Consider adding a provision that would allow the Council to adopt, by ordinance, a process for handling citizen petitions. For example, requiring a minimum number of signatures, or having the petitions accepted, reviewed and acted upon by a Council subcommittee at the end of the Council's regular meeting (similar to the process Phoenix uses).**

## Sec. 17. Interference in administrative service.

Neither the council nor any of its members shall direct or request the appointment of any person to, or his removal from, office by the city manager or by any of his subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the city. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the city manager and neither the council nor any member thereof shall give orders to any subordinates of the city manager, either publicly or privately. Nothing in this section shall be construed, however, as prohibiting the council while in open sessions from fully and freely discussing with or suggesting to the city manager anything pertaining to city affairs or the interests of the city.

## Sec. 18. Conduct of council as to powers authorized by charter when no procedure established by law.

Whenever, by any provisions of this charter, it is prescribed that any power, duty or procedure shall or may be exercised, performed or adopted in the manner established by any law of this state, and there be no procedure established by law therefor, then the council may prescribe the procedure.

## Sec. 19. Limitation of terms.

No mayor shall serve more than three consecutive elected terms as mayor and no councilman shall serve more than three consecutive elected terms as councilman. **The limitations contained herein shall apply to the office of mayor commencing with the election for that office in 1992 as provided in this charter and shall apply to the office of councilman commencing with the election for that office in 1990 as provided in this charter.** *(consider deleting highlighted language).*

## Sec. 20. Internal auditor.

**City Clerk - NOTE: The language for Charter Officers (Attorney, Auditor, Clerk, Manager, and Treasurer) is not consistent. Consider reviewing and/ possibly revising language to have consistent requirements for all Charter officers; e.g., residency and surety bond requirements, adding or removing the statement that an officer "serves at the pleasure of the Council", etc. Consider whether these requirements should be done by ordinance or employment agreement.**

The city council shall have the authority to appoint an internal auditor to examine and verify such city affairs as the council may direct. The auditor shall report directly to the council.

# Scottsdale City Charter

**City Clerk - Consider reviewing Internal Auditor's duties outlined in the Charter to determine whether they are accurately reflected, or need to be amended for clarity and/or to add or remove duties.**

**Consider whether to add Surety Bond requirement and/or "serves at the pleasure of the council" statement.**

*City Attorney's Office - (Consider clarifying whether the Internal Auditor is a City (Charter) Officer as more fully discussed below regarding the City Attorney. If the Internal Auditor is a City Officer, and if the residency requirement for City Officers remains in place, the Internal Auditor would need to comply with the residency requirement. If the intent is that the Charter is not requiring the Internal Auditor to reside in the City (unless the Council specifically requires that in its contract or by ordinance) then that should be clarified as well.*

**City Auditor – "Consider labeling this section as "City Auditor" consistent with City Code and placement of the position. "Internal auditor" more typically refers to a position reporting to the City Manager.**

**Consider the following revision to clarify the auditor's duties which are further detailed in Code: The city council shall have the authority to appoint a city auditor to examine and verify such city affairs as the city auditor deems appropriate and the city council may approve. The city auditor shall conduct audits and investigations in accordance with applicable government auditing standards promulgated by the U.S. Government Accountability Office. The city auditor shall be provided unrestricted access, except as limited by statute, to all city records, personnel, facilities and information necessary to carry out these duties. The city auditor shall report directly to and serve at the pleasure of the city council.**

**I concur with the suggestions regarding clarifying the City Auditor as a Charter Officer (how the position has been handled to date), along with "serve at the pleasure of council," residency requirements, bond requirements, etc. that are/may be established for other Charter Officers.**

**Consider whether the City Council's Audit Committee (consisting of 3 members of Council, appointed by the Mayor and approved by Council) should be addressed in the Charter. It is now established in Code.**

**Consider clarification that charter officers, or at least the City Auditor, have the power to appoint, employ and remove such assistants, employees and personnel as deemed necessary for efficient and effective administration of the office, and to prescribe their duties, scope of authority and qualifications within the civil service structure provided for all city employees. Currently it seems that all employees other than charter officers may be considered employees of the city manager. Such a clarification as this would protect the City Auditor's independence in particular."**

# Scottsdale City Charter

## Article 3: The City Manager

---

### Sec. 1. Appointment of city manager.

The council shall appoint **an officer** of the city who shall have the title of city manager and shall have the powers and perform the duties in this charter provided. No councilman shall receive such appointment during the term for which he shall have been elected, nor within one year after the expiration of his term.

### Sec. 2. The city manager; qualifications.

The city manager shall be chosen by the council on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as hereinafter set forth. At the time of his appointment, he need not be a resident of the city or state, but during his tenure of office he shall reside within the city.

### Sec. 3. City manager; powers and duties.

The city manager shall be the chief executive of the administrative branch of the city government. He shall be responsible to the council for the proper administration of all affairs of the city and to that end, subject to the provisions of this charter, he shall have power and shall be required to:

- See that all ordinances are enforced and that the provisions of all franchises, leases, contracts, permits and privileges granted by the city are observed;
- Appoint and when necessary for the good of the service remove all officers and employees of the city except as otherwise provided by this charter and except as he may authorize the head of a department or office to appoint and remove subordinates in such department or office;
- Prepare the annual budget estimates and submit them to the council and be responsible for the administration of the budget after adoption;  
Keep the council advised at all times of the affairs and needs of the city and make reports annually, or more frequently if requested by the council, of all the affairs of the city;
- Supervise the purchasing for all departments of the city;  
Perform such other duties as may be prescribed by this charter or required of him by the council, not inconsistent with this charter;  
The city manager shall furnish a surety bond to be approved by the council; said bond to be conditioned on the faithful performance of his duties. The premium of the bond shall be paid by the city.
- (7) The city manager shall furnish a surety bond to be approved by the council; said bond to be conditioned on the faithful performance of his duties. The premium of the bond shall be paid by the city.

# Scottsdale City Charter

**City Clerk - Consider reviewing City Manager's duties outlined in the Charter to determine whether they are accurately reflected, or need to be amended for clarity and/or to add or remove duties.**

## Sec. 4. Acting city manager.

If the city manager is absent from the city, is unable to perform his duties, or is suspended by the council, or if there is a vacancy in the office of the city manager, the council shall appoint an acting city manager to serve until the city manager returns, until his disability or suspension ceases or until another city manager is appointed and qualifies, as the case may be.

## Sec. 5. Removal of city manager.

The council shall appoint the city manager for an indefinite term and may remove him by a majority vote of its members. The city manager may within ten (10) days from the date of said vote, request a public hearing to be held not later than thirty (30) days thereafter. **Severance pay will be at the discretion of the council. (The blue highlighted language is likely out of date and the task force should consider deleting it. The terms for any severance pay should be negotiated and agreed to before a contract with the City Manager is executed.)** The action of the council in suspending or removing the manager shall be final and conclusive on everyone, it being the intention of this charter to vest all authority and fix all responsibility for such suspension and removal in the council.

**City Clerk - It is not clear whether the City would be required to pay the Manager's salary during the "public hearing" period. Consider whether to add "serves at the pleasure of the council" statement.**

# Scottsdale City Charter

## Article 4: Administrative Departments and Offices

---

### Sec. 1. Administrative departments and offices.

The council, by ordinance not inconsistent with this charter, shall provide for the organization, conduct and operation of the several offices and departments of the city as established by this charter, for the creation of additional departments, divisions, offices and agencies and for their consolidation, alteration or abolition.

The council, by ordinance not inconsistent with this charter, may assign additional functions or duties to offices, departments or agencies. Where the positions are not incompatible, the council may combine in one person the powers and duties of two or more offices created or authorized by this charter.

The council shall provide the number, titles, qualifications, powers, duties and compensation of all officers and employees of the city. Officers of the city shall become residents of the city within six (6) months after the start of their employment. The city council may by ordinance provide residency requirements for all other city employees.

***City Attorney's Office - Again, the Task Force should consider which of the City Council's direct reports are considered "Officers" and/or which ones should have a mandatory residency requirement.***

### Sec. 2. City clerk.

The council shall appoint an officer of the city, who shall have the title of city clerk, and who shall give notice of all council meetings, keep the journal (***consider changing to "record" or "minutes"***) of the council's proceedings, authenticate by his signature and record in full in books kept for the purposes (***consider deleting the blue highlighted language because the methods used to retain records are changing***) all ordinances and resolutions, and shall perform such other duties as shall be required by this charter or by ordinances. He will serve at the pleasure of the council.

**City Clerk - Consider amending to reflect authority to oversee all City records. Consider reviewing City Clerk's duties outlined in the Charter to determine whether they are accurately reflected, or need to be amended for clarity and/or to add or remove duties. Consider whether to add Surety Bond requirement.**

### Sec. 3. City treasurer.

The council shall appoint an officer of the city, who shall have the title of city treasurer, and who shall receive and have custody of all the money of the city and shall keep and save said money and dispense the same only as provided by law, and who shall always be bound by the constitution, laws and ordinances and upon whom legal garnishments and demands may be served. He will serve at the pleasure of the council.

# Scottsdale City Charter

The city treasurer shall furnish a surety bond to be approved by the city council. Said bond; to be conditioned on the faithful performance of his duties. The premium of the bond shall be paid by the city.

**City Clerk - Consider reviewing City Treasurer's duties outlined in the Charter to determine whether they are accurately reflected, or need to be amended for clarity and/or to add or remove duties.**

**Consider whether the Treasurer should also oversee the Finance Department.**

## Sec. 4. City attorney.

The council shall appoint the city attorney who shall be the chief legal advisor of all offices, departments and agencies and of all officers and employees in matters relating to their official powers and duties. It shall be his duty to perform all services incident to his position as may be required by statute, by this charter or by ordinance. He will serve at the pleasure of the council.

**City Clerk - Consider reviewing City Attorney's duties outlined in the Charter to determine whether they are accurately reflected, or need to be amended for clarity and/or to add or remove duties.**

**Consider adding language that would make it clear the City Attorney is a Charter Officer.**

**Consider whether to add Surety Bond requirement.**

*City Attorney's Office - Note that the City Attorney is not referred to as an officer while the City Manager, City Treasurer and City Clerk are referred to as Officers. The Charter provides that Officers are required to become residents of the City within 6 months of their employment. (See Section 1 above). If the Task Force wants to require the City Attorney to be a resident, it should consider clarifying that the City Attorney is an officer of the City as is stated for the City Manager, City Clerk and City Treasurer. If the Task Force does not want to require that the City Attorney be a resident, it should clarify that the City Attorney is not automatically required to be a resident, but the City Council may require such residency by contract or ordinance.*

## Sec. 5. Civil service system to be established.

The city council shall create a civil service board within one (1) year after the adoption of this charter by the voters. The board shall consist of three qualified electors of the city to be appointed by the city council.

The term of the appointment of members shall be for six (6) years, except that of the members first appointed, one shall be appointed for a term of two (2) years, one for a term of four (4) years and one for a term of six (6) years.

Any vacancies during the unexpired term of an appointive member shall be filled by the council for the remainder of the term.

The civil service board shall prescribe, amend, and enforce rules for the employees of the city, except those elected by the people and also excluding all officers and department heads. These rules shall have the effect of law after they have been approved by the city council.

# Scottsdale City Charter

City Clerk - Consider amending language to change civil service board to Personnel Board.

Consider revising term lengths to be consistent with the other City boards and commissions (3 years.)

To be consistent with other City boards and commissions, consider removing the phrase, "Any vacancies during the unexpired term of an appointive member shall be filled by the council for the remainder of the term."

*City Attorney's Office - This provision seems out of date. The Civil Service Board is commonly referred to as the Personnel Board. Its duties have been more narrowly drawn by the City Code. The Personnel Board's primary function is to serve as an appeal board for non-exempt or classified employees appealing disciplinary and/or termination decisions. This appeal right is only provided to non-exempt, classified employees, so a large number of the City's employees (typically the salaried employees) are not given this appeal right.*

---



# Scottsdale City Charter

## Article 5: Appointive Boards and Commissions

---

Sec. 1. Appointive boards and commissions.

The council may by ordinance create, change, and abolish boards or commissions as in its judgment are required, or as are now or hereafter provided by law and may grant to them such power and duties as are consistent with the provisions of this charter.

All members of appointive boards or commissions shall at the time of their appointment be a resident of the city, and shall maintain this residency for the duration of their term in office.

No member of a board or commission shall serve for more than six consecutive years on that board or commission. This provision shall apply to all appointments to boards or commissions made on or after March 1, 1988.

***City Attorney's Office - Consider whether Task Forces should be addressed by the Charter.***

Sec. 2. Mayor and city manager ex officio members.

The mayor and city manager shall be ex officio members without voting privileges, of all boards and commissions.

***City Attorney's Office - Consider deleting. This seems out of date and may cause confusion related to open meeting law and conflicts of interest laws.***

# Scottsdale City Charter

## Article 6: Finance and Taxation

---

### Sec. 1. Fiscal year.

The fiscal year of the city shall commence on the first day of July each year.

### Sec. 2. Council to provide for tax system; use of county services.

The council may by ordinance provide a system for the assessment, levy and collection of all city taxes, not inconsistent with the provisions of this charter (*consider adding "or State law"*); provided, however, the council shall have power to avail itself of any law of this state, now or hereafter in force, and comply with the requirements thereof whereby assessments may be made by the assessor of the county in which the city is situated and taxes collected by the tax collector of said county for and in behalf of the city.

*City Attorney's Office - Note: Municipal tax has become much more uniform than it was when this Charter provision was first written. Most cities have adopted the Model City Tax Code pursuant to State law. There is, however, a benefit to the City asserting its intent to continue to assert as much control over its municipal tax revenues as possible because the City currently wants to make its own assessments and collections rather than having the State manage that.*

### Sec. 3. Submission of estimates to council; scope of city manager's estimate.

On or before the second regular council meeting in May of each year, or on such date in each year as shall be fixed by the council, the city manager shall prepare and submit in writing to the council the estimates of each department and his own personal report and recommendations and estimate as to the probable expenditures of the city for the next ensuing fiscal year, stating the amount in detail required to meet all expenditures necessary for city purposes, including interest and sinking funds, and outstanding indebtedness, if there be any; also an estimate of the amount of income expected from all sources in each department, and the probable amount required to be raised by taxation to cover such expenditures, interest and sinking funds.

### Sec. 4. Preparation and tentative adoption of a budget; publication of budget and notice of meeting to fix tax levies.

The council shall meet annually prior to fixing the tax levy and make a budget of the estimated amounts required to pay the expenses of conducting the business of the city for the ensuing fiscal year. The budget shall be prepared in such detail as provided by law and, together with a notice that the council will meet for the purpose of making tax levies, in accordance with said budget, at the time and place set out in said notice, shall be published **in the official newspaper of the city**

*City Attorney's Office – (consider changing the blue highlighted language and offering the City more flexibility regarding where its notices should be published because newspapers may cease to be the preferred method for publishing notices in the future)* once a week for at least two (2) consecutive weeks following the tentative adoption of such budget.

### Sec. 5. Public hearing and adoption of budget.

# Scottsdale City Charter

The council shall, at the first regular meeting in June and at the time and place designated in such notice, hold a public hearing at which any taxpayer may appear and be heard in favor of or against any proposed expenditure or tax levy. When such hearings shall have been concluded, the council shall finally determine and adopt estimates of proposed expenditures for the various purposes as set forth in the published proposal and such adopted estimates will constitute the budget for the next fiscal year.

(a) After the conclusion of such public hearing, the council may insert new items or may increase or decrease the items of the budget. The council may not vary the titles, descriptions or conditions of administration specified in the budget. Before inserting any additional item or increasing any item of appropriation, it must cause to be published a notice at least once in the official newspaper of the city, setting forth the nature of the proposed increases and fixing a place and time, not less than five (5) days after publication, at which time the council will hold a public hearing thereon.

## Sec. 6. Exceeding adopted budget.

Nothing in this article shall be construed to limit the power of the council to appear before the state tax commission or any other duly authorized state body for the purpose of requesting authorization to exceed the adopted budget for emergency or unanticipated municipal expenditures.

## Sec. 7. Adoption of ordinance fixing tax rate.

On the day set for making tax levies, but not later than the third Monday in August, the council shall meet and adopt an ordinance levying upon the assessed valuation of the property within the city, subject to the provisions of this charter, a rate of taxation upon each one hundred dollars (\$100.00) of valuation, sufficient to raise the amounts estimated to be required in the annual budget, less the amounts estimated to be received from fines, licenses and other sources of revenue.

## Sec. 8. Additional taxes for special purposes.

The council shall have the power to levy and collect taxes in addition to the taxes herein authorized to be levied and collected, sufficient to pay the interest and maintain the sinking fund of the bonded indebtedness of the city and an additional amount deemed to be advisable and necessary for any public or municipal purposes.

## Sec. 9. Transaction privilege tax.

The council shall have the power to levy a transaction privilege tax provided that no such tax levy computed or measured on the gross receipts, gross income or gross proceeds of sales of the taxpayer without deduction for cost of goods, or property or services sold or other costs shall be levied at a rate in excess of one percent of such gross receipts, gross income or gross proceeds of any such taxpayer unless such rate is approved by a majority of the qualified electors of the city, voting on the question whether such a rate should be approved at a general or special election wherein such question has been submitted.

## Sec. 10. Tax exempt property.

All the property within the city shall be subject to taxation, except that property which is exempt from taxes under the laws of the United States and the laws of this state.

## Sec. 11. Transfer of appropriations.

The city manager, subject to the approval of the council, may at any time transfer any unencumbered appropriation balance or portion thereof between general classifications of

# Scottsdale City Charter

expenditures within an office, department or agency. At the request of the city manager, the council may transfer any unencumbered appropriation balance or portion thereof from one office, department or agency to another.

## **Sec. 12. Claims or demands against the city.**

**The council shall prescribe by ordinance the manner and limitations of time in which claims or demands against the city shall be presented, audited and paid.**

*City Attorney's Office - Note: This seems out of date and is unnecessary because it is currently controlled by State law. Consider deleting.*

## **Sec. 13. Transfer of sums from any funds to principal and interest funds.**

Whenever there shall not be sufficient moneys, in any of the interest or principal reduction funds for bonded indebtedness of the city to pay the interest or any principal payment on such bonded indebtedness when due, the council shall direct the transfer from the general or any other fund having moneys therein, except private contributions or endowment funds in the possession or control of the city, to such interest or principal funds the necessary amounts of money to pay the interest or principal payment due on said bonded indebtedness, and the amount so transferred shall be returned to the respective funds from which such transfer was made whenever sufficient moneys shall accrue in said bonded indebtedness funds.

## **Sec. 14. Independent annual audit.**

Prior to the end of each fiscal year the council shall designate certified public accountants who, as of the end of the fiscal year, shall make an independent audit of city government and shall submit their report to the council and to the city manager. All such audit reports shall be a matter of public record. Such accountants shall have no personal interest, direct or indirect, in the fiscal affairs of the city government or of any of its officers. They shall not maintain any accounts or records of the city business, but, within specifications approved by the council, shall post-audit the books and documents kept by the city and any separate or subordinate accounts kept by any other office, department or agency of the city government.

**City Auditor – “Consider clarifying requirements for audit, Sec 14. Independence standards established in generally accepted government auditing standards, by the state Board of Accountancy, and other professional bodies such as the American Institute of CPAs, adequately cover the last sentence of Sec 14.**

**Prior to the end of each fiscal year, the council shall designate certified public accountants who shall perform an independent audit of the city's annual financial statements in accordance with generally accepted government auditing standards for financial audits as promulgated by the US Government Accountability Office and requirements of the federal and state government related to reporting on financial compliance matters. The certified public accountants shall be independent of the city government, having no personal interest, direct or indirect, in the fiscal affairs of city government or any of its officers. The certified public accountants shall submit their reports to the council and to the city manager. All such audit reports shall be a matter of public record.”**

# Scottsdale City Charter

## Sec. 15. Investment of funds.

The council shall have the authority to invest all funds available at the highest available interest rate, assuring that all moneys are fully secured.

## Sec. 16. Capital improvements excluded from expenditure limitations.

The City of Scottsdale may accumulate and expend local revenues for the purpose of purchasing land, buildings or improvements or constructing buildings or improvements as funds excluded from expenditure limitations pursuant to article IX, section 20(3)(d)(viii) Arizona Constitution.

# Scottsdale City Charter

## Article 7: Ordinances and Resolutions

---

Sec. 1. Council to act by resolution or ordinance.

The council shall act by resolution or ordinance.

**City Clerk - Consider adding language that would allow the Council to act by motion.**

*City Attorney's Office - Consider clarifying this Section. City staff usually prepares a written resolution or ordinance prior to Council action so that Council can pass the resolution or ordinance if it chooses to do so. However, the Council occasionally acts by verbal motion alone. This is more common when the Council places a Council item on their agenda and passes a verbal motion to act on it. This type of a motion could be interpreted to be a verbal resolution, but resolutions are usually numbered, written, retained, etc. It is unclear whether this section of the Charter intended all actions to be written or whether it contemplated verbal motions or resolutions. It should be clarified.*

Sec. 2. Ayes and nays to be recorded.

The ayes and nays shall be taken upon the passage of all ordinances and resolutions and entered upon the journal (**consider changing to "record"**) of the proceedings of the council.

**City Clerk - Consider revising language to make it less restrictive and allow the Council to cast votes electronically in lieu of making a formal declaration of "aye" or "nay."**

Sec. 3. When majority or 2/3 vote required.

A majority vote of all the members of the council shall be necessary to pass any ordinance or resolution having the effect of an ordinance (**consider deleting the blue highlighted language**) except that the adoption or readoption of, or a major amendment to the general plan shall be approved by affirmative votes of at least two-thirds of the members of the council. A "major amendment" to the general plan shall be as defined by state law.

*City Attorney's Office - (Consider deleting the blue highlighted language. State law already provides that 2/3 of the Council must agree to a major general plan amendment and state law delegates to the cities to define what constitutes a major general plan amendment. There are also other areas where a larger than simple majority vote would be required such as when an emergency clause is being passed or when a legal protest has come in on a re-zoning case. Recommended language could be as follows:*

*"A majority vote of all the members of the council shall be necessary to pass any ordinance, resolution or motion except where a larger than majority vote is required by the City Code, State or Federal law.")*

# Scottsdale City Charter

## Sec. 4. Enacting style.

The enacting clause of all ordinances passed by the council shall be in these words: "Be it ordained by the Council of the City of Scottsdale as follows:".

## Sec. 5. Reading or posting and passage of ordinances and resolutions; effective date.

All proposed ordinances and **resolutions having the effect of ordinances**, shall either be read in full or posted in a public place at least twenty-four (24) hours prior to their adoption, provided that if any amendments are proposed to a posted ordinance such amendments shall be read in full prior to their adoption.

A measure may be placed upon final passage at the same meeting as when introduced by unanimous consent of the council.

Measures (*consider substituting the word "measures" with word "ordinances"*) without the emergency clause shall take effect and become operative thirty (30) days after the date of their passage.

*City Attorney's Office - Consider updating this section. Ordinances are typically legislative actions (laws), such as passing or amending new sections of City Code or re-zoning a property. Resolutions are typically administrative actions such as approving contracts or granting conditional use permits. This section also refers to "resolutions having the effect of ordinances" and that likely means a resolution that is nonetheless referable, but the exact meaning of this phrase is unclear. Whether this section only applies to Ordinances or to any action that could be referred should be clarified.*

*It is important to note that the Open Meeting law does not differentiate between the notice that must be given prior to a public meeting for legislative actions (ordinances) versus administrative actions (resolutions). Some topic areas require additional notice by state law, such as zoning or taxation laws, but the open meeting law does not differentiate between ordinances and resolutions in terms of notice prior to a meeting. The Task Force could delete the sections regarding notice prior to a public meeting, in which case the City would simply follow the Open Meeting Law, which requires a minimum of 24 hours notice (reasonable notice) of the matters to be discussed. If the Task Force wanted to ensure a higher level of notice for ordinances or other matters it feels are important, it could continue to state those additional requirements in this section, such as requiring the proposed ordinance be posted in full 24 hours prior to the meeting. If changes to ordinances are made during the meeting, the Task Force may want to consider allowing those changes to be read into the record or set forth in writing, displayed during the meeting, and attached to the minutes, rather than requiring every change to be read out loud. (The section of the Charter requiring any changes be "read" into the record was likely written prior to the ELMO or other technologies, which would allow the Council and public to actually see the change being proposed.)*

*The Task Force may also want to consider adding what must occur by Ordinance, to prevent confusion about this. There is a model code provision regarding what should occur by ordinance, which the Task Force may wish to consider.*

# Scottsdale City Charter

*The second paragraph is confusing and should be deleted or clarified.*

*In the third paragraph, it is unclear what "measures" means and that should be clarified. Administrative approvals, such as contracts, which are passed by resolutions are typically not referable and are usually executed within a few days of the City Council's approval. It does not seem practical to wait 30 days after Council agrees to a contract to execute it. The Task Force should consider when administrative actions should take effect.*

*Possible clarifying language could be "Ordinances or any other referable actions shall take effect and become operative thirty (30) days after the date of their passage. All other actions that are not subject to referendum shall take effect immediately upon passage".*

Sec. 6. Emergency measures; effective date.

An emergency measure is one necessary for the immediate preservation of the public peace, health or safety, in which the emergency is set forth and defined. Passage of an emergency measure shall require the affirmative vote of at least five (5) members of the council, or such other number of affirmative votes as may be required by law, taken by ayes and nays. An emergency measure shall take effect immediately upon its passage.

Sec. 7. Signing of ordinances and resolutions.

All ordinances and resolutions shall be signed by the mayor and attested by the city clerk.

*City Attorney's Office - Please note that the current practice is for the City Attorney's Office to sign all resolutions and/or ordinances as well.*

Sec. 8. Publication of ordinances and resolutions.

All ordinances and resolutions having the effect of ordinances, except emergency measures, shall be published once within ten (10) days of their passage, in the official newspaper of the city before they become effective and operative.

**City Clerk - Consider revising to:**

**All ordinances and resolutions having the effect of ordinances, except emergency measures, shall become effective and operative thirty (30) days after its adoption or twenty (20) days after its publication in the official newspaper of the City, whichever is later.**

Emergency ordinances which have been passed by the necessary vote of five (5) members of the council shall be published one time in the official newspaper of the city within ten (10) days after their passage.

*City Attorney's Office - Consider revising or deleting this entire section. State law currently requires ordinances be published in the newspaper. However, the state law*



# Scottsdale City Charter

*may change to allow ordinances to be published through other means. If state law changes, but the City Charter still requires publication in a newspaper, the City would have to continue to publish in a newspaper.*

Sec. 9. How ordinances and resolutions are to be revised; reenacted and amended.

Ordinances, or resolutions **having the effect of an ordinance**, shall not be revised, reenacted or amended by reference to title only, but the ordinance, or resolution **having the effect of an ordinance** (*consider deleting the blue highlighted language*). to be revised or reenacted, or the section or sections thereof to be amended, or the new section or sections to be added thereto, shall be set forth and adopted in the method provided in this charter for the adoption of ordinances and resolutions.

Sec. 10. How ordinances or resolutions are to be repealed or suspended.

No ordinance, or resolution **having the effect of an ordinance** (*consider deleting the blue highlighted language*), or section thereof shall be repealed or suspended except by ordinance or resolution adopted in the manner provided in this charter.

Sec. 11. Ordinances and resolutions to be filed, recorded and certified; ordinances and resolutions as evidence.

All ordinances and resolutions shall be filed and safely kept by the city clerk and duly recorded and certified by him in books for that purpose marked "city ordinances" and "city resolutions" respectively; and record copies thereof certified by the city clerk, or the originals thereof shall be prima facie evidence of the contents of such ordinances or resolutions and of the due passage and publication of the same, and shall be admissible in evidence in any court of this state, or in any proceeding where the contents of such ordinance or resolution, or any of them, is in question; provided, however, that nothing herein contained shall be construed to prevent the proof of passage and publication of any ordinance or resolution in the manner otherwise prescribed by law.

Sec. 12. Procedure for adoption by reference.

The council may enact the provisions of a code or public record theretofore in existence without setting forth such provisions, but the adopting ordinance shall be published in full. **At least three (3) copies of the code or public record shall be filed in the office of the city clerk and kept available for public use and inspection. A code or public record enacted by reference may be amended in the same manner.**

**City Clerk - Consider reducing the required number of copies to one.**

No penalty clause shall be enacted by reference thereto. A penalty clause contained in a code or public record adopted by reference shall be set forth in full in the adopting ordinance.

**City Attorney's Office - Note: This currently repeats the state law ARS §802-803.**

# Scottsdale City Charter

## Sec. 13. Codification of ordinances.

Any or all ordinances of the city which have been enacted and published in the manner required at the time of their adoption, and which have not been repealed, shall be compiled, consolidated, revised, indexed and arranged as a comprehensive ordinance code, and such code may be adopted by reference, with the same effect as an ordinance, by the passage of any ordinance for such purpose. Such code need not be published in the manner required for other ordinances but not less than **three (3) copies thereof shall be filed for use and examination by the public in the office of the city clerk prior to the adoption thereof.**

**City Clerk - Consider reducing the required number of copies to one.**

Ordinances codified shall be repealed as of the effective date of the code. Amendments to the code shall be enacted in the same manner as ordinances.

*City Attorney's Office - Consider revising. Currently not all ordinances are codified, such as zoning ordinances. Zoning Map amendments are done by ordinances. The Zoning Map is kept up to date, but the actual ordinances making the map amendments are not codified. Sec. 13 needs to better identify those ordinances that will be codified or it should be otherwise clarified.*

# Scottsdale City Charter

## Article 8: Contracts

---

### Sec. 1. Preparation.

All contracts shall be executed in the name of the City of Scottsdale by the mayor, except as it may be otherwise provided either by this charter or by law (*consider adding "or by ordinance or resolution of the City Council,"*) and must be countersigned by the city clerk who shall number and register the same in a book kept for that purpose.

*City Attorney's Office - Consider updating. Given the breadth of the City's operations, it is often impractical and unnecessary to have the Mayor sign every contract the City executes. Many contracts are, in fact, currently executed by employees with Council delegated authority to do so and/or pursuant to a specific council ordinance or resolution. The additional language proposed above simply clarifies that some contracts may be executed by someone other than the Mayor pursuant to the City Council's direction in an Ordinance or Resolution.*

*Currently only the contracts the Council executes are countersigned by the City Clerk (and City Attorney), given a contract number and kept in the City Clerk's records. Contracts which others have the authority to execute are processed and recorded differently. Consider whether the Charter should require all contracts to be numbered and kept in a central location or whether only the contracts the Council executes should be treated in this fashion.*

### Sec. 2. Contracts for city improvements.

The city may contract for city improvements as provided by law. **When required, all such contracts shall be executed in writing and shall be awarded to the lowest responsible bidder after public notice and competition unless the council rejects all bids.**

*City Attorney's Office - Consider revising because this Section is out-of-date. Title 34 of Arizona Revised Statutes allows invitations for bids but it also allows for Construction Manager at Risk, Design/Build Contracts and Job Order Contracts which are awarded based on qualifications. The City follows Title 34 and awards Construction Manager at Risk and/or Design/Build does not always request a traditional bid or award the contract to the lowest responsible bidder. Consider deleting the highlighted language.*

### Sec. 3. Purchases and bids.

The city council shall by ordinance specify the conditions and procedures that shall apply when formal bidding is required, when informal bidding is required, and when no bidding is required, for all goods and services contracted for by the city.

### Sec. 4. Transfer of property.

# Scottsdale City Charter

The city manager may transfer to or between offices, departments and agencies supplies, materials and equipment, subject to such regulations as the council may prescribe.

Sec. 5. Fraud and collusion.

**(A)** Any member of the council or any officer or employee of the city who shall aid or assist a bidder in securing a contract to furnish labor, material, equipment, supplies or services at a higher price than proposed by any other bidder, or who shall favor one bidder over another by giving or withholding information or who shall willfully mislead any bidder in regard to the character of the labor, material, equipment, supplies or services called for, or the conditions under which the proposed work is to be done, or who shall knowingly accept materials, supplies, or equipment of a quality inferior to those called for by any contract, or who shall knowingly certify to a greater amount of labor or service performed than has been actually performed or to receipt of a greater amount or different kind of material, supplies, or equipment than was actually received, shall be guilty of a misdemeanor and upon conviction thereof shall be removed from office.

*City Attorney's Office - Consider making this a two-part provision. (A) would relate to officers, employees, or council members that misuse the city's procurement process. (B) would relate to contractors, vendors, or any entity seeking to do business with the city that misuses the process. The proposed new paragraph would make clear that, if a contractor misuses the city's procurement process in obtaining a contract, that contract will be null and void and the City will be entitled to reimbursement or other damages. The new paragraph might read as follows:*

*(B) If at any time a person or entity to whom a contract has been awarded has, in presenting any bid or bids, colluded with any other party, employee or officer of the city, or council member for the purpose of preventing any other bid to be made; securing a contract to furnish labor, material, equipment, supplies, public improvements, or equipment of a quality inferior to those called for by any contract; or who knowingly certifies to a greater amount of labor or service performed than has been actually performed and/or to receipt of a greater amount or different kind of material, supplies, or equipment than was actually received, then the contract so awarded shall be null and void, and the City shall be entitled to pursue all remedies for damages, if any, allowed by law.*

Sec. 6. Conflict of interest.

All elected and appointed officers of the city, including members of boards and commissions; whether established by charter, ordinance, resolution, state constitution or statute; and all city employees shall be subject to the conflict of interest laws of the state of Arizona.

Sec. 7. Sale or transfer of interests in city property.

The city council shall, by ordinance, specify the conditions and procedures that shall apply when formal bidding is required, when informal bidding is required, and when no bidding is required for leasing, selling, or disposing of other interests in city real or personal property in a manner provided by law.

Sec. 8. Preserve land designation.

# Scottsdale City Charter

To establish a mountain and desert preservation heritage for present and future citizens of the city, the council may designate as preserve land any land owned by the city which is suitable for mountain or desert preservation. The council shall designate preserve land by resolution. Land purchased directly with the proceeds of a tax specifically authorized by the electors for purchase of preserve land shall be deemed designated as preserve land upon the city's acquisition. Land that may be designated as preserve land is any land owned by the city in fee title and any other real property interest which gives the city possession or use of land or power to cause land to be left in its natural condition.

## Sec. 9. Permanent designation.

A preserve land designation shall be perpetual unless that designation is removed as provided in this charter.

## Sec. 10. Encumbrance of preserve land.

The city shall not convey ownership or grant any easement, lease, lien or other real property interest in any land designated as preserve land.

## Sec. 11. Removal of preserve land designation.

The council may remove the preserve designation from any parcel of land less than one (1) acre in area. Such removal shall be limited to a maximum of six (6) parcels within any one (1) calendar year. Such removal shall not become effective until sixty (60) days after an affirmative vote of two-thirds (2/3) of all members of the council and after resolution of any referendum concerning such removal. Removal of the preserve designation from any other parcel of land shall require approval by an affirmative vote of two thirds (2/3) of all members of the council, but shall not become effective unless submitted by the council to the electors and approved by vote of the majority of votes cast at the election.

# Scottsdale City Charter

## Article 9: Elections

---

### Sec. 1. Permitted types of election.

Elections to be held in the city shall be either general, run-off or special elections.

(a) General elections shall be held for the purpose of electing officers of the city and determining whether a run-off election is necessary.

(b) Run-off elections shall be held when any elected offices remain unfilled after the general election.

(c) All other municipal elections that may be held by authority of this charter, or of any other law, shall be known as special elections and may, at the discretion of the city council, be conducted concurrently with a general, run-off or any other election authorized by law.

**City Clerk - The Task Force might consider changing the City's elections to Primary and General, rather than General and Run-off. This language would make our election process more consistent with the State process.**

### Sec. 2. Qualifications of electors; registration.

The qualifications of electors shall be as required by the constitution and laws of this state for state, county and city electors. Registration of voters shall be as required by the laws of this state and the register of qualified electors shall be compiled from the general county register.

### Sec. 3. Arrangement of names not to reveal source of candidacy or support of candidates.

The names of the candidates for each office shall be arranged as provided by law and nothing on the ballot shall be indicative of the source of the candidacy or of the support of any candidate.

### Sec. 4. Time of holding general elections.

General elections shall be held in even numbered years on the first calendar date authorized by the state law establishing mandatory election dates. If there is no such law, or if the state law is made optional or is determined not to be mandatory for charter cities, the general election shall be held on the third Tuesday in February. Run-off elections, if necessary, shall be held following general elections on the second calendar date authorized by the state law establishing mandatory election dates. If there is no such law, or if the state law is made optional or is determined not to be mandatory for charter cities, the run-off shall be held on the fourth Tuesday in March.

### Sec. 5. Majority to elect in general.

# Scottsdale City Charter

Any candidate who shall receive at the general election, the number of votes constituting a majority of all of the ballots cast, shall be declared to be elected to the office for which he is a candidate, and no further elections shall be held as to said candidate provided that if more candidates receive the number of votes constituting a majority of all of the ballots cast than there are offices to be filled, then those candidates, equal in number of the offices to be filled, receiving the highest number of votes shall be declared to be elected.

*City Attorney's Office - Currently the method of calculating a majority is based on the number of ballots cast in the election, which will be likely be consolidated elections (Federal, State, & Local) pursuant to State law. The County Recorder totals the number of ballots cast in the consolidated election within the City and that is the total used to determine if any candidate received 50% or more of the ballots cast. However, some voters vote only in the national or state races and fail to cast a vote for City candidates. A City candidate could, therefore, receive more than 50 percent of votes cast in his race, but still not have more than 50% of the ballots cast in the election. In this case, a run-off-election would be necessary. This occurred during the last Mayor race.*

*The Task Force may consider whether this is an issue that should be solved and/or whether there is a practical solution to it. At first blush, it may appear that this could be changed to 50% of the votes cast in that race. That would work in cases where only one seat is open. However, voters often vote for multiple (3) Council Members at a time. That means voters could vote for 3 Council candidates or they could only vote for the 1 Council candidate they really want to be elected. Given this, the number of votes cast for each seat can be difficult to calculate. The majority number of votes could be based on total votes cast in that race (as opposed to ballots) divided by the number of open seats, but that could end up being less than 50% of the votes that were actually cast (because some voters will not vote as many times as they are allowed to vote in a Council race). The Task Force should consider these issues and determine whether (and if so, how) this should be revised.*

## Sec. 6. Run-off election.

If at any general election there be any office or offices to which no candidate therefor was elected, then a run-off election shall be held to elect candidates to fill such office or offices. The candidates not elected at the general election, equal in number to twice the number to be elected to any given office, or less if so there be, and who received the highest number of votes for the respective offices at the general election, shall be the only candidates at the run-off election; provided, that if there be any person who under the provisions of this section would have been entitled to become a candidate for any office, except for the fact that some other candidate received an equal number of votes therefor, then all such persons receiving said equal number of votes shall likewise become candidates for such office.

## Sec. 7. Candidates receiving most votes to be elected.

# Scottsdale City Charter

The candidates, equal in number to the persons to be elected, who shall receive the highest number of votes at a run-off election shall be declared elected to such office. In any cases of ties, the decision as to winner shall be determined by lot.

**City Clerk - Consider changing the City's elections to Primary and General, rather than General and Run-off, to be more consistent with the State and the rest of the consolidated ballot.**

**Consider removing language that allows for the option of returning to February and March elections if there is a change in the State's Consolidated Election law.**

**Consider holding only one Council election in November of even-numbered years. If the City continues to hold two elections to fill the offices of Mayor and Councilmember, consider changing the method of calculating a majority to elect based on total votes cast (rather than ballots) divided by the number of open seats.**

**Consider adding language to make it clear "candidate" means qualified ballot candidate (thus, excludes write-in candidates).**

## Sec. 8. Special elections.

Subject to the requirements of any state election laws that may apply, the council shall provide the time, manner and means of holding any special election, provided that no election shall be called less than thirty (30) days following publication **in the official newspaper of the city.** **(consider deleting the blue highlighted language).** All special elections shall be conducted in the same manner and under the same provisions as are provided for the holding of general elections.



# Scottsdale City Charter

## Article 10: Initiative, referendum and recall

---

### Sec. 1. Initiative, referendum and recall.

There is hereby reserved to the electors of the city the powers of the initiative and referendum and of the recall of elective officers. The provisions of the constitution and general laws of the state, as the same now exist or hereafter may be amended, governing the initiative and referendum and recall of elected officers shall apply in the city. No initiative measure, however, may change or alter, or remove or limit, any power, right, duty, privilege or immunity conferred by or established by this charter, and no initiative measure which in any way conflicts with a provision of this charter or responsibilities conferred by it, shall, to the extent of such conflict, be operative. All city matters on which the council is or shall be empowered to legislate may be submitted by the council, of its own motion, to the electors for adoption or rejection at a general or special election in the same manner and with the same force and effect as matters submitted on petition.

# Scottsdale City Charter

## Article 11: City Court

---

### Sec. 1. Establishment.

There shall be and is hereby established in the city a municipal court, to be known and designated "The City Court of Scottsdale, Maricopa County, State of Arizona".

### Section 2. City judge; appointment; term; judges pro tempore.

The city judge shall be the presiding officer of the city court, shall be a duly licensed attorney in the State of Arizona, shall be selected in a manner provided by ordinance and shall serve for a period of two (2) years. He shall receive such compensation as provided by the city council and may be removed by them for cause.

*City Attorney's Office - The Task Force should consider changing this term of service to four (4) years. Extending the term saves time and money. A longer term is preferred because it provides more stability in terms of employment for the individual judge and it provides more continuity to the court system.*

**Presiding Judge / City Court – we recommend that the Charter be changed to provide that the City Judge (presiding judge) be appointed for a 2 year, second 2 year, and thereafter a 4 year term/4 year terms.**

The city council may appoint judges pro tempore as deemed necessary.

### Sec. 3. Ordinances to give effect.

The council shall pass all necessary ordinances to give effect to the provisions of this article, not otherwise herein provided.

**Presiding Judge / City Court – we recommend that a new section be added –**

**"Operations. City Court operations and budgeting are conducted under the direction of the Presiding Judge. The City Court will follow budget procedures established by the City. It is recognized that the budget process must provide funding in a manner that allows flexibility on how the monies are allocated and sufficient funding for proper operation of the court, related to personnel, commodities and other contractual expenses. The City Court will adhere to City expenditure and procurement procedures; however the Presiding Judge will retain authority to make individual expenditures within the court's budget, and will manage, account and expend according to his statutory and City authority."**

# Scottsdale City Charter

## Article 12: Franchise and Public Utilities

---

### Sec. 1. Franchises.

A person desiring to obtain a franchise to operate a public utility from this city shall present the franchise desired to the city council of the city and it shall be filed among its records.

If the council deems the granting of the franchise beneficial to the city, it shall pass a resolution, to be spread upon its record stating that fact, and shall submit the question to the qualified voters, as to whether or not the franchise shall be granted, at the following regular election held in the city or at a special election called for that purpose.

The proposed franchise shall be published in full in the official newspaper of the city once a week for four (4) consecutive weeks prior to the election, or as otherwise provided by law, and the cost of same, together with the election expenses shall be paid by the applicant for such franchise.

If a majority of the votes cast are in favor of granting the franchise, the council shall grant the franchise only in the form filed and published.

A franchise shall not be granted for a longer term than twenty-five (25) years.

Before calling any such election, the estimated expense of publication and election thereof (to be determined by the council) shall be first deposited by the applicant for such franchise with the city clerk.

*City Attorney's Office - Consider revising and updating. This section primarily repeats the requirements of ARS §9-502, regarding franchise agreements with public utilities with the exception that the state statute requires publishing in a paper 30 consecutive days prior to the election. There is another statute that clarifies this as to weekly papers. Rather than attempt to interpret what the law currently requires (as state law could easily change) it would be best for the City's Charter to be revised to state: "The proposed franchise shall be published prior to the election in accordance with State law."*

*The City enters into franchise agreements with public utilities such as APS and Southwest Gas, who wish to put their equipment in City Right-of-Way in exchange for a franchise fee (a franchise fee is typically a percent of the utility company's gross receipts in the City, which are passed on to the ultimate consumer, so it is often analogized to a tax. This is likely why it requires voter approval). However, there are many companies with equipment in the City Right-of-Way who are not considered "public utilities" and that are not, therefore, required to have franchise agreements. These companies are usually subject to a licensing agreement of some sort. The companies falling into this category are more numerous. Examples include cable TV companies such as Cox, wireless telecommunication companies such as T-Mobile and Sprint, companies with special quasi-governmental status such as SRP, etc. These companies typically pay a fee associated with being in the right-of-way and enter into an agreement with the City. These agreements are not "franchise agreements" and are not approved by the voters because there is no franchise fee being paid. The City can regulate the use of its right-of-way in the City Code, so it is not critical to update the Charter with this variety of an agreement,*

# Scottsdale City Charter

***but the Task Force should be aware of it and make an independent determination whether the Charter should address this activity or not.***

Sec. 2. Establishment of municipally owned and operated utilities.

The city shall have the power to own and operate any public utility, to construct and install all facilities that are reasonably needed, and to lease or purchase any existing utility properties used or useful to public service. The city may also furnish service to adjacent and nearby territories which may be conveniently and economically served by the municipally owned and operated utility, subject to the limitations of the provisions of the general laws of this state. The council may provide by ordinance for the establishment of such utility and provide for its regulation and control and the fixing of rates to be charged. The council may by ordinance provide for the extension, enlargement or improvement of existing utility, and provide reasonable reserves for such purpose.

Sec. 3. Establishment of classifications and regulations of rates of public utilities.

The city shall have full power to and may prescribe just and reasonable classifications to be used and just and reasonable rates and charges to be made and collected by all corporations rendering public utility service within the corporate limits of the City of Scottsdale as now or hereafter constituted, except public service corporations as such corporations are defined and the regulation thereof delegated to the Arizona Corporation Commission by article XV, section 2, Arizona Constitution.

The city council may establish such boards as are necessary and convenient to discharge its duties pursuant to this enactment. The powers hereby conferred shall be exercised by the city council pursuant to ordinance providing for hearings and investigations and establishing procedures to be followed in determining and fixing fair value of any such utility property and a reasonable rate of return and providing for suitable penalties, civil and criminal, for violation of any lawful order or requirement made or imposed pursuant to any regulatory ordinance or in furtherance of any regulatory investigation.

***City Attorney's Office - Consider revising or deleting this section.***

# Scottsdale City Charter

## Article 13: General Provisions

---

### Sec. 1. Publicity of records.

All records and accounts of every office, department or agency of the city shall be open for inspection by any citizen, any representative of a citizen's organization or any representative of the press at all reasonable times and under reasonable regulations established by the city council, except records and documents the disclosure of which would tend to defeat the lawful purpose which they are intended to accomplish.

***City Attorney's Office - Consider revising to read: "All records and accounts of every office, department or agency of the city shall be open for inspection by any citizen, any representative of a citizen's organization or any representative of the press at all reasonable times pursuant to all applicable laws."***

***Reason: The proposed language is more in line with State law than the current provision.***

### Sec. 2. Official bonds.

All elected and appointed officers and such other employees as the council may by ordinance or resolution require to do so, shall give bond in such amount and with such surety as may be approved by the council; the premium on such bonds to be paid by the city.

### Sec. 3. Oath of office.

Every officer of the city, whether elected or appointed under the provisions of this charter, or under any ordinance of the city shall, before entering upon the duties of his office, take and subscribe an oath required by the state constitution.

### Sec. 4. Short title.

This charter, adopted by the people of the City of Scottsdale, shall be known and may be cited as the Charter Form of Government of the City of Scottsdale.

### Sec. 5. Plenary and implied powers of the council.

The council shall have plenary power to enact and make all proper and necessary ordinances, resolutions and orders to carry out and give effect to the express, as well as the implied powers granted in this charter, to the end that a complete, harmonious, and effective municipal government may be initiated, installed, operated and maintained in the city, and thereby protect and safeguard the rights, interests, safety, morality, health and welfare of the city and its inhabitants.

# Scottsdale City Charter

## Article 14: Succession in Government

---

### Sec. 1. Rights of officers and employees preserved.

Nothing in the charter contained, except as specifically provided, shall affect or impair the rights or privileges of officers or employees of the city or of any office, department, or agency existing at the time when this charter shall take effect, or any provision of law in force at the time when the charter shall take effect and not inconsistent with the provisions of this charter, in relation to the personnel, appointment, rank, grade, tenure of office, promotion, removal, pension and retirement rights, civil rights or any other rights or privileges of officers or employees of the city or any office, department or agency.

### Sec. 2. Continuance of present officers.

All persons holding executive and administrative office at the time this charter takes effect shall continue in office and in the performance of their duties until provisions shall have been made in accordance therewith for the performance of such duties or the discontinuance of such duties.

### Sec. 3. Continuance of present offices, departments and agencies.

Any office, department or agency provided for in this charter to be named or with powers and duties the same or substantially the same as those heretofore existing, shall be deemed a continuation of such office, department or agency and shall have powers to continue any business proceedings or other matters within the scope of the powers and duties prescribed by the charter. Any office, department or agency not provided for in this charter, heretofore existing, shall continue to exercise powers and duties as the same were heretofore exercised and shall have the power to continue any business proceedings or other matters within the scope of its regular powers and duties until such office, department or agency shall be changed or abolished by the council as heretofore provided in this charter.

The powers conferred and the duties imposed upon any office, department or agency of the city by the laws of this state shall, if such office, department or agency be abolished by this charter or under its authority, be thereafter exercised and discharged by the office, department or agency designated by the council, unless otherwise provided herein.

### Sec. 4. Continuance of appointive boards and commissions.

All appointive boards and commissions, heretofore existing, shall continue and shall exercise such powers and duties as were granted them until such boards and commissions shall be changed or abolished by the council as heretofore provided in this charter.

A task force is different from a Board or Commission. Consider whether to address Task Force's here.

### Sec. 5. Transfer of records and property.

All records, property and equipment whatsoever of any office, department or agency or part thereof, all the powers and duties of which are assigned to any other office, department or agency

# Scottsdale City Charter

by this charter, or under its authority shall be transferred and delivered to the office, department or agency to which such powers and duties are so assigned.

## Sec. 6. Continuance of contracts.

All contracts entered into by the city prior to the taking effect of this charter, shall continue in full force and effect.

## Sec. 7. Pending actions and proceedings.

The adoption of the charter shall not abate or otherwise affect any action or proceeding, civil or criminal, pending when it takes full effect, brought by or against the city or any office, department, agency, or officer thereof.

## Sec. 8. Ordinances to remain in force.

All ordinances, resolutions and regulations of the city in force at the time of this charter taking effect, and not inconsistent with the provisions thereof, are hereby continued in force until the same shall be duly amended or repealed.

## Sec. 9. Inauguration of government under this charter.

If a majority of the qualified electors of the city, voting on the question, vote to ratify this charter, the provisions of this charter shall go into effect for all purposes immediately upon the approval of the governor as provided by the constitution of this state.

# Scottsdale City Charter

## Article 15: Gender

---

### Sec. 1. Gender

Wherever the context of this instrument so requires, words used in the masculine gender include the feminine and neuter; the singular number includes the plural, and the plural the singular; the word person includes a corporation, company, partnership or association, or society, as well as a natural person

---

*City Attorney's Office - If the Task Force amends the Charter by replacing male pronouns with gender neutral terms, e.g., replacing "councilmen" with "Council members," this Article could be amended to delete the reference to gender and be renamed Definitions and Rules of Construction or something along those lines.*

**Presiding Judge / City Court - In general – we suggest any reference to gender (for example, 'he') be changed to a gender neutral terminology.**

## Article 16: Amendments

---

### Sec. 1. Method of amendment.

This charter, or any part or article or section thereof, may be amended in the manner provided by the constitution of this state.